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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,926	01/30/2004	Naoki Sashida	1359.1088	3971
21171 7590 06/02/2008 STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			EXAMINER TIMBLIN, ROBERT M	
			ART UNIT 2167	PAPER NUMBER
			MAIL DATE 06/02/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/766,926

**Applicant(s)**

SASHIDA ET AL.

**Examiner**

ROBERT TIMBLIN

**Art Unit**

2167

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 21 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-17.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/John R. Cottingham/  
Supervisory Patent Examiner, Art Unit 2167

/ROBERT TIMBLIN/  
Examiner, Art Unit 2167

In accordance with the present amendments, the system as found in claims 1, 6, and 15 is best interpreted to be a hardware system. Therein the computer and storage apparatus as supported by figure 11 as well as the published specification at paragraphs 0076-0077 are best seen as hardware components in a system and obviate the system as a software per se system. Therefore, the previous 35 U.S.C. 101 rejection is withdrawn.

Continuation of 11, does NOT place the application in condition for allowance because:

Applicant argues in section A on page 7 that Stier does not teach measuring an input number of search conditions input during a period from a start to an end of a search processing requested by a user. Further, Applicant argues (second full paragraph of page 8) that the query counter in Stier merely stores the total number of queries over a selected period of time and not "search conditions" of a search processing. The Examiner respectfully disagrees as a query can reasonably be interpreted to be a search condition. In other words, a query serves as a search condition to find data. Because Stier teaches a count of queries (i.e. analogous to the claimed search conditions), the Examiner submits that Stier teaches and describes the claimed measuring an input number of search conditions.

Applicant also argues in section A on page 7 that Stier does not teach requesting the user to input information on the problem occurring during the search processing as a know-how message as recited in claims 1, 11, 13, and 15. The Examiner respectfully disagrees because Stier explicitly states where the user creates a memo outlining the problem with the knowledge base and suggesting the knowledge that should be added to the knowledge base. The Examiner submits that as the "know-how" message is broadly defined in the claims, that Stier reads on the "know-how message". In other words a memo (e.g. know-how message) in Stier lets reviewers (Stier, col. 8 line 61-63) of the system essentially "know how" there is a problem with the system. For another example, Stier in figure 5 shows a "How do I" tab (3) wherein a user may detail a problem (2). The Examiner submits with the at least "How do I" tab, that the memo includes "how-to" information and thus describes a "know-how" message on "a problem."

Applicant argues on page 8 of the reply that Britt does not teach a unit which determines that a problem occurs during the search processing when the input number measured at the end of the search processing exceeds a threshold value. The Examiner disagrees because Britt discloses a count of queries (drawing reference 25, figure 2) and their corresponding responses for a search processing of a preferred query (further detailed in Britt, col. 4 lines 2-9). That is, if the number of queries (i.e. search conditions) with their responses exceed a threshold, then there is a problem determined with the preferred query, and thus an alternate query is chosen. In other words, if the input number of queries for a preferred query is determined to give an unacceptable percentage of errors, then a problem is determined because that would give an indication of too many queries producing erroneous results.

In section B of the reply (page 8) Applicant argues that Stier does not teach measuring a necessary time taken from a start to an end of search processing requested by a user. The Examiner respectfully disagrees and submits that Stier teaches a turnaround time for knowledge that includes the time elapsed from when new knowledge is incorporated to when that knowledge is available for use (Stier, col. 11 line 47-51). In a reasonable interpretation, this teaching of Stier can be seen to teach that the knowledge turnaround time 437 is the time that knowledge is entered to the time that it is available for searching. The Examiner submits that the entering of data for searching is a part of a search process in that makes data available. For another example of how Stier teaches the claimed "necessary time taken from a start to an end of a search processing requested by a user," Stier teaches the measuring the number of times that an acceptable resolution is found to a request for information when the knowledge base is queried (Stier, col. 11 line 31-35). That is, Stier mentions keeping track of how many times the knowledge base should be queried until an acceptable resolution (response) is returned. In this respect, the search processing is the time of when an agent begins a search to when an acceptable resolution is found. The Examiner submits that Stier teaches keeping track of how many times a query is needed to find the resolution.

The Applicant also argues that Schmidt does not teach determining "a problem" has occurred in association with a particular "search processing..." The Examiner respectfully disagrees and submits that Schmidt teaches (at least in the Overview section) the analyzing and fixing of "long-running" queries (i.e. queries that require large amounts of time). Schmidt further teaches that when a long running query is identified (fifth bullet in the section labeled "The System") it is done so by determining that it has ran over a wait interval. Furthermore, if a query is determined as being problematic (i.e. last paragraph of page 2 in Schmidt) by passing over a given threshold, then it may be identified and fixed for optimization. The Examiner submits that such a teaching would have been beneficial to Stier in that the queries used in their system can be analyzed in a similar manner to be optimized in information retrieval.

In Section C of the reply (page 9) the Applicant argues that Birkhoelzer does not teach know-how message which is voice data storing uttered contents of the user. The Examiner disagrees because Birkhoelzer teaches a voice datafile in which a user can prescribe voice data (i.e. record uttered contents from the user). The Examiner submits that the memo outlined by a user in Stier would also be beneficial as a voice datafile for another means of communicating the message as well as a convenient means to store a memo outlined by an agent in a file.

As for the dependent claims, Applicant argues that the references do not teach the limitations of claim 2. The Examiner disagrees as Stier teaches at least the limitations found therein. That is, at least in col. 8 line 17-33, Stier describes accessing a knowledge object. In Stier's system, a knowledge object comprises a query object (e.g. figure 5) which documents a problem and further includes a memo outlining the problem (i.e. Stier, col. 8 line 59-61). The Examiner submits that in the maintenance of Stier's knowledge base, the query objects are to be updated to contain current problem and resolution data. The Examiner submits that in Stier, the agents of the system will query (i.e. access) the knowledge base for problems and solutions, and in a case where their query matches a query object in the knowledge base, that the query object (with the know-how outline information) that is found is returned to the user. In other words, when an agent queries the knowledge base, and the query is matched with a problem, this is a case where a search condition (e.g. from the agent) matches the query object (including the know-how memo) in the database to return and output that query object to the agent.

Lastly, the Applicant argues that there is no motivation to combine Britt and Stier (see page 10 of the reply). The Examiner disagrees because Britt would have given Stier a way to determine the occurrence of an error after a number of queries have been counted for the benefit of indicating a problem. The Examiner further submits that Stier would have been motivated to include Britt's teachings for the

benefit of helping an agent search for a problem to troubleshoot and fix should the number of queries counted in a period of time become excessive.